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11 *Attorneys for Plaintiffs and the Putative Classes*

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

16 REBEKAH BAHARESTAN and JENA
17 MCINTYRE, on behalf of themselves and all
18 others similarly situated,

19 Plaintiffs,

20 v.

21 VENUS LABORATORIES, INC., dba
22 EARTH FRIENDLY PRODUCTS, INC.,

23 Defendant.

Case No. _____

CLASS ACTION COMPLAINT

INTRODUCTION

2. Defendant Earth Friendly Products manufactures, markets and sells “Earth Friendly®” household cleaners and products that it misleadingly labels as “natural,” despite containing non-natural ingredients. These products all contain multiple highly processed, synthetic, or non-natural ingredients, including:

18 Baby Laundry Detergent Chamomile & Lavender

- 1 Uni-Fresh Air Freshener Cinnamon
- 2 Uni-Fresh Air Freshener Lavender
- 3 Uni-Fresh Air Freshener Parsley
- 4 Creamy Cleanser
- 5 Countertop Cleaner
- 6 Dishmate Natural Almond
- 7 Dishmate Organic Lavender
- 8 Dishmate Organic Grapefruit
- 9 Dishmate Natural Pear
- 10 Dishmate Fragrance Free
- 11 Dishmate Apricot
- 12 Dishmate Grapefruit
- 13 Hand Dishwash Pear
- 14 Hand Dishwash Grapefruit
- 15 Floor Cleaner
- 16 Fruit & Veggie Wash
- 17 Orange Plus
- 18 Orange Plus Complete
- 19 Parsley Plus All Surface Cleaner
- 20 Silver Polish
- 21 Stainless Steel Cleaner
- 22 Wave
- 23 Furniture Polish
- 24 Window Cleaner Lavender
- 25 Window Cleaner Vinegar
- 26 Shower Cleaner
- 27 Toilet Cleaner

28

1 (the “Products”).

2 3. Earth Friendly represents the Products to be natural, naturally derived, made from
3 plaints, and safer alternatives to traditional detergents. Additionally, Earth Friendly represents the
4 Products as pure and free from harmful chemicals found in traditional detergents.

5 4. To the detriment of the consumer, the Products are not, in fact, natural. All of the
6 Products contain at least one or more of the following non-natural ingredients: Alcohol Denat;
7 Caprylyl/Myristyl Glucoside; Cocamidopropyl Betaine; Cocamidoprylamine oxide; Lauryl
8 glucoside; Methylisothiazolinone; Phenoxyethanol; Potassium cocoate; Potassium sorbate; and
9 Sodium Coco-Sulfate.

10 5. In fact, the Products contain a chemical, Methylisothiazolinone (“MI”), which is
11 so potent an allergen that between 2% and 10% of the population may have developed an allergic
12 response to it, with more becoming sensitized every day. This number has grown exponentially
13 over the past few years as use of MI has become more widespread. Notwithstanding the often
14 severe reactions suffered by the significant percentage of individuals who have developed allergic
15 responses to MI, Earth Friendly fails to include any type of warning informing users that the
16 Products contain a known skin allergen.

17 6. To label the Products as “natural” creates consumer deception and confusion. A
18 reasonable consumer purchases the Products believing they are natural based on the Products’
19 labeling. However, a reasonable consumer would not deem the Products natural if he/she knew
20 that the ingredients contained in the Products are highly processed and/or non-natural.

21 7. This is a proposed class action brought by Plaintiffs, on behalf of a class of
22 similarly situated individuals, against Earth Friendly seeking redress for Defendant’s unjust,
23 unfair, and deceptive practices in misrepresenting the natural quality and other benefits of the
24 Products and failing to warn for known hazards of the Products in violation of Illinois,
25 Washington, and California law.

26 **JURISDICTION AND VENUE**

27 8. This Court has personal jurisdiction over the parties in this case. Plaintiff
28 Baharestan is a citizen of California within the County of Marin. Defendant maintains its Western

1 Division Office in Garden Grove, California, purposefully avails itself to the California consumer
 2 market, and distributes the Products to at least hundreds of locations within this County and
 3 thousands of retail locations throughout California, where the Products are purchased by
 4 thousands of consumers every day.

5 9. Plaintiff Jena McIntyre is a citizen of Washington, residing in Sedro Woolley,
 6 Washington.

7 10. This Court has original subject-matter jurisdiction over this proposed class action
 8 pursuant to 28 U.S.C. § 1332(d), which under the provisions of the Class Action Fairness Act
 9 (“CAFA”), explicitly provides for the original jurisdiction of the federal courts in any class action
 10 in which at least 100 members are in the proposed plaintiff class, any member of the plaintiff
 11 class is a citizen of a State different from any defendant, and the matter in controversy exceeds
 12 the sum of \$5,000,000.00, exclusive of interest and costs. Plaintiffs allege that the total claims of
 13 individual members of the proposed Class (as defined herein) are well in excess of \$5,000,000.00
 in the aggregate, exclusive of interest and costs.

14 11. Venue is proper in this District under 28 U.S.C. § 1391(a). Substantial acts in
 15 furtherance of the alleged improper conduct, including the dissemination of false and misleading
 16 information regarding the nature, quality, and/or ingredients of the Products, occurred within this
 17 District.

18 **Intradistrict Assignment**

19 12. Assignment to the San Francisco Division is appropriate under Civil L.R. 3-2(c)
 20 and (d) because a substantial part of the events or omissions that give rise to the claim – including
 21 the dissemination of false and misleading information regarding the nature, quality, and/or
 22 ingredients of the Products – occurred within the Counties of Alameda, Contra Costa, Del Norte,
 23 Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, and Sonoma.

24 **PARTIES**

25 **Individual and Representative Plaintiff**

26 13. Plaintiff Baharestan is an individual consumer who, at all times material
 27 hereto, was a citizen of Marin County, California. Plaintiff Baharestan purchased Ultra
 28 Dishmate in 2014 from a Mollie Stone’s market at Bon Air Shopping Center in Greenbrae, Marin

1 County, and from a Whole Foods Market in San Rafael. Plaintiff Baharestan purchased ECOS
2 Natural Laundry in 2014 from a Costco store located in Vintage Oaks Plaza in Novato, Marin
3 County.

4 14. Plaintiff Baharestan relied on Defendant's false, misleading, and deceptive
5 representations that Ultra Dishmate and ECOS Natural Laundry would provide natural, relatively
6 safe, environmentally sound, and non-injurious, non-abrasive alternatives to traditional detergent
7 offerings. Had Plaintiff Baharestan known the truth that the statements she relied on were false,
8 misleading, deceptive, and unfair, she would have not purchased Ultra Dishmate or ECOS
9 Natural Laundry.

10 15. Plaintiff Baharestan is allergic to MI. Although she now knows and understands
11 that even the slightest exposure to MI will result in a serious allergic reaction, she came to that
12 realization only in September 2014, after numerous visits to doctors and a significant amount of
13 testing. At the time Plaintiff Baharestan purchased the Products, she was unaware of her allergy
14 to MI.

15 16. If Plaintiff Baharestan knew that the Product labels were truthful and not
16 misleading, she would consider purchasing the Products in the future. At present, however,
17 Plaintiff Baharestan cannot be confident that the labeling of the Products is, and will be, truthful
18 and non-misleading.

19 17. Plaintiff McIntyre purchased Liquid Laundry Detergent Magnolia & Lily from
20 2012 to 2014, Liquid Laundry Detergent Free & Clear from the Walmart Supercenter in Mount
21 Vernon, Washington from 2013 to 2014, as well as Parsley Plus All Surface Cleaner from the
22 Fred Meyer in Burlington, Washington in 2014.

23 18. Plaintiff McIntyre relied on Defendant's false, misleading, and deceptive
24 representations that the products would provide natural, relatively safe, environmentally sound,
25 and non-injurious, non-abrasive alternatives to traditional detergent offerings. Had Plaintiff
26 McIntyre known the truth that the statements she relied on were false, misleading, deceptive, and
27 unfair, she would have not purchased the Products.

28 19. If Plaintiff McIntyre knew that the Product labels were truthful and not
misleading, she would consider purchasing the Products in the future. At present, however,

1 Plaintiff McIntyre cannot be confident that the labeling of the Products is, and will be, truthful
2 and non-misleading.

3 **Defendant**

4 20. Defendant Earth Friendly is a Delaware corporation with its principal place of
5 business in Addison, Illinois.

6 21. According to the packaging for the Products, they are distributed by Earth Friendly
7 Products, "For Love of the Planet, Addison, IL 60101" and "Made in the USA in CA, FL, IL, NJ
& WA."

8 22. Plaintiff does not know the names and locations of the other defendants listed
9 under fictitious names as "DOES 1-5," who, along with the identified Defendant, are believed to
10 be responsible for the manufacture, marketing, and/or distribution of the Products and who will
11 be identified specifically upon further discovery.

12 23. Plaintiff refers herein to each and all of the defendants identified above as
13 "Defendant" or "Earth Friendly."

14 24. Defendant manufactures, markets, and distributes the Products throughout
15 California and the United States.

16 **COMMON FACTUAL ALLEGATIONS**

17 **A. Defendant Deceives Consumers By Falsely Labeling the Products as "Natural."**

18 25. Each year, consumers purchase billions of dollars' worth of "natural" products. In
19 2010, U.S. consumers purchased \$10.9 billion worth of natural/organic personal care and
20 household products; up from \$10.4 billion in 2009.¹ Given this strong demand for "natural"
21 products, it is not surprising that Defendant labels its Products as "natural."

22 26. Seeking to profit on consumers' desire to locate and use natural, environmentally
23 sound, non-abrasive, and non-injurious detergent alternatives to standard offerings, Defendant
24 markets the Products as "natural," derived from plants, and free from harmful chemicals,
25 providing environmental and safety benefits that traditional detergents do not.

26 ¹ Natural Products Association,
27 [http://www.npainfo.org/NPA/About_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation](http://www.npainfo.org/NPA/About_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8)
28 [.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8](http://www.npainfo.org/NPA/About_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8) (last visited June 30, 2014).

27. The Products are sold in a variety of outlets, including Wal-Mart, Safeway, Target, and other health food, grocery, and drug stores.

28. The packaging for the Products misrepresent that the Products will benefit the environment and consumers alike in a variety of ways.

29. Each of the Products prominently professes that it is “natural” on the front label.

30. For example, with regard to Ultra Dishmate, Earth Friendly markets the detergent as “naturally derived,” “natural,” “made from plants,” and free from various chemicals, including 1,4-Dioxane, formaldehyde, and petrochemicals. These representations are made prominently on the front of the product packaging and are designed to lure consumers who are concerned about the use of chemicals and harmful substances. Indeed, as seen in the representative image below, these claims fill most of the front label, along with the Earth Friendly fruit logo and a picture of clouds in a blue sky.



31. Additionally, with regard to ECOS Natural Laundry, Earth Friendly also markets the detergent as “natural” and free from various chemicals, including 1,4-Dioxane, formaldehyde, and petrochemicals. These representations are made prominently on the front of the product packaging and are designed to lure consumers who are concerned about the use of chemicals and harmful substances. Indeed, as seen in the representative image below, these claims are made, among other locations, in an eye-catching yellow band atop the label.



32. Thus, the Products are deceptively marketed as uniquely positioned, in contrast to conventional detergent offerings, to provide consumers with natural, plant-derived, pure, environmentally sound alternatives that are free from harmful chemicals.

B. The Products Are Not Natural Because They Contain Synthetic and/or Highly Processed Ingredients, and a Reasonable Consumer Would Not Deem the Products to Be Natural.

33. Despite Defendant's labels and its representations regarding the natural quality of the Products, the truth is the Products are not natural. Defendant uses many ingredients in its Products, including: Alcohol Denat; Caprylyl/Myristyl Glucoside; Cocamidopropyl Betaine; Cocamidopropylamine oxide; Lauryl glucoside; Methylisothiazolinone; Phenoxyethanol; Potassium cocoate; Potassium sorbate; and Sodium Coco-Sulfate, that do not meet a reasonable consumer's definition of "natural."

34. A reasonable consumer would not deem any of the Products containing the following ingredients to be "natural":

- a. Alcohol Denat is "prepared by adding one or more denaturing agents to potable Alcohol, making it unfit for beverage or internal human medicinal use."² Common denaturing agents include: quassin, brucine sulfate, and denatonium benzoate.³ Quasinn is prepared by allowing quassia chips to stand in hot water.⁴ The extract is treated with lead acetate and carbon. The carbon is removed and mixed with chloroform. The mixture is reduced and dissolved in methanol and hot water.⁵ Brucin is prepared by reacting 2-hydroxystrychnine in acetyl alcohol.⁶ Following the reaction, 2 N HClO₄ and Na₂S₂O₄ is added.⁷ The mixture is then dissolved in CHCl₃/Methyl Alcohol and treated with ethereal diazomethane.^{8,9}

² Final Report on the Safety Assessment of Alcohol Denat, 1 Int. J. Toxicology 1, 2 (2008), available at <http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-pdfs/PR273.PDF>.

³ *Id.*

⁴ *Id.* at 5.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ The following products contain Alcohol Denat: Baby Laundry Detergent Chamomile & Lavender, Everyday Stain & Odor Remover, Uni-Fresh Air Freshener Vanilla, Uni-Fresh Air Freshener Cinnamon, Uni-Fresh Air Freshener Lavender, Uni-Fresh Air Freshener Parsley, Countertop Cleaner, Floor Cleaner, Fruit & Veggie Wash, Orange Plus, Orange Plus Complete,

- b. Caprylyl/Myristyl Glucoside is produced by reacting glucose with anhydrous ethanol under acidic conditions to produce ethyl glucoside.^{10,11}
- c. Cocamidopropyl Betaine (CAPB) is produced by coconut oil fatty acids with 3,3-dimethylaminopropylamine (DMAPA), which forms cocamidopropyl dimethylamine.¹² The cocamidopropyl dimethylamine is then reacted with sodium monochloroacetate which produces CAPB.¹³ The NPA prohibits products containing CAPB from being certified as “natural.”^{14,15}
- d. Cocamidopropylamine oxide is manufactured by reacting hydrogenated coconut oil with DMAPA, which is further reacted with a food grade hydrogen peroxide.^{16,17}

Parsley Plus All Surface Cleaner, Window Cleaner Lavender, Window Cleaner Vinegar, and Shower Cleaner.

¹⁰ Monice M. Fiume at 26S.

¹¹ The following products contain Caprylyl/Myristyl Glucoside: Everyday Stain & Odor Remover, Uni-Fresh Air Freshener Cinnamon, Uni-Fresh Air Freshener Parsley, Countertop Cleaner, Floor Cleaner, Fruit & Veggie Wash, Orange Plus, Orange Plus Complete, Parsley Plus All Surface Cleaner, Wave, Furniture Polish, Window Cleaner Lavender, Shower Cleaner, Toilet Cleaner.

¹² Cosmetic Ingredient Review: Expert Panel Meeting, at 35-36 (Dec. 13, 2010), *available at* http://www.cir-safety.org/sites/default/files/117_final_capb.pdf.

¹³ *Id.*

¹⁴ Nat'l Prods. Ass'n, NPA Standard and Certification for Personal Care Products (2010), *available at*

http://www.npainfo.org/App_Themes/NPA/docs/naturalseal/The%20Natural%20Standard%202004%201112%20final.pdf (last visited June 10, 2014).

¹⁵ The following products contain CAPB: Baby Laundry Detergent Chamomile & Lavender, ECOS 4X Concentrated Laundry Detergent, Liquid Laundry Detergent Magnolia & Lily, Liquid Laundry Detergent Lavender, Liquid Laundry Detergent Lemongrass, Liquid Laundry Detergent Free & Clear, Creamy Cleanser, Dishmate Natural Almond, Dishmate Organic Lavender, Dishmate Organic Grapefruit, Dishmate Natural Pear, Dishmate Fragrance Free, Dishmate Apricot, Dishmate Grapefruit, Hand Dishwash Pear, Hand Dishwash Grapefruit, and Silver Polish.

¹⁶ Amended Final Report of the Safety Assessment of Cocamidopropylamine Oxide, 27 Int. J. of Toxicology, 55, 56 (2008).

¹⁷ The following products contain Cocamidopropylamine oxide: Baby Laundry Detergent Chamomile & Lavender, ECOS 4X Concentrated Laundry Detergent, Liquid Laundry Detergent Magnolia & Lily, Liquid Laundry Detergent Lavender, Liquid Laundry Detergent Lemongrass, Liquid Laundry Detergent Free & Clear, Spray Starch, Uni-Fresh Air Freshener Vanilla, Uni-Fresh Air Freshener Cinnamon, Uni-Fresh Air Freshener Lavender, Uni-Fresh Air Freshener Parsley, Dishmate Natural Almond, Dishmate Organic Lavender, Dishmate Organic Grapefruit,

- e. Lauryl glucoside is produced by reacting glucose with anhydrous ethanol under acidic conditions to produce ethyl glucoside.^{18,19}
- f. MI is produced by reacting ethylene dichloride with sulfurly chloride.²⁰ The material is then filtered, dissolved in water, diluted with chloroform, and then dried over magnesium sulfate.²¹ MI is an EPA registered pesticide.²² It is used to control slime-forming bacteria, fungi, and algae.²³ MI is a known neurotoxin and is prohibited by the NPA from being included in products that are certified as “natural.”^{24, 25}
- g. Phenoxyethanol is manufactured by reacting phenol with ethylene oxide in the presence of a basic catalyst under pressure and with heating until 4-8% of the Phenoxyethanol is converted to the diethoxylate; the resulting product is

Dishmate Natural Pear, Dishmate Fragrance Free, Dishmate Apricot, Desmate Grapefruit, Hand Dishwash Pear, Hand Dishwash Grapefruit, and Window Cleaner Lavender.

¹⁸ Monice M. Fiume, et al., *Safety Assessment of Decyl Glucoside and Other Alkyl Glucosides as Used in Cosmetics*, 32 Int. J. of Toxicology 22S, 26S (2013), available at <http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-pdfs/PR586.pdf>.

¹⁹ The following products contain Lauryl Glucoside: Baby Laundry Detergent Chamomile & Lavender, ECOS 4X Concentrated Laundry Detergent, Liquid Laundry Detergent Lavender, Liquid Laundry Detergent Lemongrass, Liquid Laundry Detergent Free & Clear.

²⁰ Sheldon N. Lewis et al., *Isothiazoles I; 4-Isothiazolin-3-ones. A General Synthesis from 3,3'-Dithiodipropionamides*, 8 J. Heterocyclic Chemistry 571, 579 (1971).

²¹ *Id.*

²² EPA, R.E.D. Facts: Methylisothiazolinone (1998), available at <http://www.epa.gov/oppsrrd1/REDs/factsheets/3092fact.pdf> (last visited June 10, 2014).

²³ *Id.*

²⁴ Nat'l Prods. Ass'n, NPA Standard and Certification for Personal Care Products (2010), available at

http://www.npainfo.org/App_Themes/NPA/docs/naturalseal/The%20Natural%20Standard%20041112%20final.pdf (last visited June 10, 2014).

²⁵ The following products contain MI: Baby Laundry Detergent Chamomile & Lavender, ECOS 4X Concentrated Laundry Detergent, Liquid Laundry Detergent Magnolia & Lily, Liquid Laundry Detergent Lavender, Liquid Laundry Detergent Lemongrass, Liquid Laundry Detergent Free & Clear, Spray Starch, Creamy Cleanser, Dishmate Natural Almond, Dishmate Organic Lavender, Dishmate Organic Grapefruit, Dishmate Natural Pear, Dishmate Fragrance Free, Dishmate Apricot, Desmate Grapefruit, Hand Dishwash Pear, Hand Dishwash Grapefruit, Silver Polish, Stainless Steel Cleaner, and Furniture Polish.

1 neutralized and purified.^{26,27}

2 h. Potassium cocoate is manufactured “by combining the fatty acids of coconut
3 oil with potassium hydroxide.”^{28,29}

4 i. Potassium sorbate is manufactured “by reacting sorbic acid with an equimolar
5 portion of potassium hydroxide. The resulting potassium sorbate may be
6 crystallized from aqueous ethanol.”^{30,31}

7 j. Sodium Coco-Sulfate (“SCS”) is manufactured in a multi-step, non-natural
8 process that is nearly the same as making Sodium Lauryl Sulfate (“SLS”), but
9 instead of starting from a single fatty acid from coconut oil it begins with a
10 broad cut of saturated fatty acids.³² The process begins by reducing the fatty
11

12
13 ²⁶ Final Report on the Safety Assessment of Phenoxyethanol, 9 J. Am. Coll. of Toxicology 259,
14 260 (1999), available at [http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-](http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-pdfs/pr139.pdf)
15 [pdfs/pr139.pdf](http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-pdfs/pr139.pdf).

16 ²⁷ The following products contain Phenoxyethanol: Baby Laundry Detergent Chamomile &
17 Lavender, ECOS 4X Concentrated Laundry Detergent, Liquid Laundry Detergent Magnolia &
18 Lily, Liquid Laundry Detergent Lavender, Liquid Laundry Detergent Lemongrass, Liquid
19 Laundry Detergent Free & Clear, Spray Starch, Creamy Cleanser, Dishmate Natural Almond,
20 Dishmate Organic Lavender, Dishmate Organic Grapefruit, Dishmate Natural Pear, Dishmate
21 Fragrance Free, Dishmate Apricot, Dishmate Grapefruit, Hand Dishwash Pear, Hand Dishwash
22 Grapefruit, Silver Polish, Stainless Steel Cleaner, and Furniture Polish.

23 ²⁸ Christina L. Burnett et al., *Final Report on the Safety Assessment of Cocos nucifera (Coconut)*
24 *Oil and Related Ingredients*, 30 Int. J. of Toxicology 5S, 6S (2011), available at
25 <http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-pdfs/pr507.pdf>.

26 ²⁹ The following products contain Lauryl Glucoside: ECOS 4X Concentrated Laundry Detergent,
27 Liquid Laundry Detergent Magnolia & Lily, Liquid Laundry Detergent Lavender, Liquid
28 Laundry Detergent Lemongrass, Liquid Laundry Detergent Free & Clear.

29 ³⁰ *Final Report on the Safety Assessment of Sorbic Acid and Potassium Sorbate*, 7 J. Am. Coll. of
30 Toxicology 837, 839 (1988), available at [http://online.personalcarecouncil.org/ctfa-](http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-pdfs/pr152.pdf)
31 [static/online/lists/cir-pdfs/pr152.pdf](http://online.personalcarecouncil.org/ctfa-static/online/lists/cir-pdfs/pr152.pdf).

32 ³¹ The following products contain Everyday Stain & Odor Remover, Uni-Fresh Air Freshener
Parsley, Countertop Cleaner, Floor Cleaner, Fruit & Veggie Wash, Orange Plus, Orange Plus
Complete, Parsley Plus All Surface Cleaner, Wave, Window Cleaner Vinegar, Shower Cleaner,
Toilet Cleaner.

³² Hebe Botanicals, Sodium Coco Sulfate – Another Synthetic Detergent,
<http://www.hebebotanicals.co.nz/sodium-coco-sulfate-another-synthetic-detergent/> (last visited
Sept. 19, 2014).

acids into lauryl alcohol.³³ Sulfur trioxide or chlorosulfonic acid is added to the lauryl alcohol by a sulfation process.³⁴ The mixture is then neutralized, often using sodium hydroxide, sodium carbonate, or sodium bicarbonate to form SCS.³⁵ The SCS is then purified with one or more solvents, such as n-butanol, diethyl ether, or ethanol.³⁶ Given that the USDA and FDA consider SLS to be a synthetic substance, and SCS is produced using the same process, SCS is not natural.^{37, 38}

35. Accordingly, a reasonable consumer would not deem the Products containing any of the above ingredients to be natural.

36. Thus, by labeling the Products as “natural,” Defendant deceives and misleads reasonable consumers.

37. Furthermore, the Products contain Methylisothiazolinone (2-methyl-4-isothiazolin-3-one, or “MI”), a biocide used for controlling microbial growth in water-containing solutions.

38. MI is neither “natural” nor “made from plants” in the traditional use of those words. MI is produced by the controlled chlorination of dimethyldithiodipropionamide (DPAM) in solvent, followed by neutralization and extraction into water.

³³ ICF Consulting for the USDA Nat’l Organic Program, *Technical Evaluation Report: Sodium Lauryl Sulfate* (2006), available at <http://www.pharmsolutionsinc.com/docs/NationalOrganicProgramReportonSodiumLaurylSulfate.pdf> (last visited June 10, 2014).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*; see also Oral Health Care Drug Product for Over-the-Counter Human Use; Antigingivitis/Antiplaque Drug Products; Establishment of a Monograph; Proposed Rules, 68 Fed. Reg. 32232, 32263 (May 29, 2003).

³⁸ The following products contain SCS: Baby Laundry Detergent Chamomile & Lavender, ECOS 4X Concentrated Laundry Detergent, Liquid Laundry Detergent Magnolia & Lily, Liquid Laundry Detergent Lavender, Liquid Laundry Detergent Lemongrass, Liquid Laundry Detergent Free & Clear, Spray Starch, Uni-Fresh Air Freshener Citrus, Uni-Fresh Air Freshener Vanilla, Uni-Fresh Air Freshener Cinnamon, Uni-Fresh Air Freshener Lavender, Uni-Fresh Air Freshener Parsley, Dishmate Natural Almond, Dishmate Organic Lavender, Dishmate Organic Grapefruit, Dishmate Natural Pear, Dishmate Fragrance Free, Dishmate Apricot, Dishmate Grapefruit, Hand Dishwash Pear, Hand Dishwash Grapefruit, and Window Cleaner Lavender.

39. MI is known to have allergenic and cytotoxic properties and has been associated with skin toxicity, immune system toxicity, and allergic reactions.³⁹ Evidence also exists that it may be neurotoxic.⁴⁰ In Canada and Japan, this substance is restricted in cosmetics.⁴¹ The European Commission's Scientific Committee on Consumer Safety has stated that MI is unsafe above 15 ppm in rinse-off cosmetic products, and that *no* amount of MI is safe in products designed for prolonged contact with the skin.⁴²

40. Indeed, MI has been linked to what is called an "epidemic" of painful skin allergies, including rashes, blistering, swelling, redness, and hives.⁴³ MI contact allergies are rising dramatically.⁴⁴ The rapidly increasing rates of allergic reactions to MI resulted in the American Contact Dermatitis Society naming MI as the contact allergen of the year in 2013. Numerous studies from all over the world quantify the "epidemic" of allergic reactions to MI as being so serious as to occur within 2% to 10% of exposed individuals.

41. No consumer would reasonably expect a "pure" offering that is free from harmful chemicals to contain a chemical preservative known to cause severe allergic reactions such as MI.

42. The front of Ultra Dishmate's packaging, which touts its "natural" composition free from various chemicals, makes no mention of this harmful chemical. The back of Ultra Dishmate's packaging asserts that "Dishmate's™ balanced pH makes it extremely gentle on hands." The packaging does not reveal anywhere that the MI it contains is linked to severe allergic reactions and considered unsafe for prolonged contact with skin. Nor does the packaging

³⁹ See EWG, EWG's Skin Deep Cosmetics Database, Entry for METHYLISOTHIAZOLINONE,"

<http://www.ewg.org/skindeep/ingredient/703935/METHYLISOTHIAZOLINONE/>.

⁴⁰ *Id.*

⁴¹ GoodGuide.com, Methylisothiazolinone Information,

<http://www.goodguide.com/ingredients/53090-methylisothiazolinone>.

⁴² See Scientific Committee on Consumer Safety, Opinion on MI, Submission II (2014), http://ec.europa.eu/health/scientific_committees/consumer_safety/docs/sccs_o_145.pdf.

⁴³ See, e.g., <http://www.telegraph.co.uk/news/health/10517988/The-epidemic-in-the-bathroom-manufacturers-told-to-remove-chemical-linked-to-skin-allergies.html>; and <http://www.webmd.com/skin-problems-and-treatments/news/20140323/rashes-from-wipes-liquid-soaps-on-the-rise>.

⁴⁴ See, e.g., <http://www.ncbi.nlm.nih.gov/pubmed/24819287>.

1 include any warning whatsoever that the contact with the Products may result in some type of
2 contact dermatitis or other skin malady.

3 43. The front of ECOS Natural Laundry's packaging, which touts its "natural"
4 composition free from various chemicals, makes no mention of this harmful chemical. The back
5 of ECOS Natural Laundry's packaging asserts that "ECOS® cleans to the most exacting
6 standards, yet is extremely gentle on fabrics." Nowhere does the packaging reveal that the MI it
7 contains is linked to severe allergic reactions and considered unsafe for prolonged contact with
8 skin.

9 44. By including MI, Defendant provides the opposite of the Products' advertised
10 attributes of being "natural" and "gentle." Moreover, Defendant misleads consumers by
11 marketing the Products as free from various chemicals, while the Products at the same time
12 contain the toxic and allergenic chemical MI.

13 45. Therefore, Defendant's representations that the Products are pure, natural,
14 environmentally sound, gentler than traditional detergents, and free from harmful chemicals are
15 false, deceptive, and misleading.

16 46. The presence of MI in Ultra Dishmate is not disclosed on the front label of the
17 packaging, where Defendant makes unqualified claims of "naturally derived," "natural," and
18 "made from plants."

19 47. The presence of MI in ECOS Natural Laundry is not disclosed on the front label of
20 the packaging, where Defendant makes multiple unqualified claims of a "natural" product.

21 48. Because the Products contain MI, an unnatural ingredient, Defendant's claim that
22 the Products are "natural" is false, misleading, and designed to deceive consumers into
23 purchasing the Products. This fact alone, that the Products are not natural, yet marketed and
24 distinguished primarily upon this characteristic, is sufficiently deceiving to the consumer. The
25 fact that MI is likely hazardous, provoking allergic and other reactions, only highlights
26 Defendant's deception.
27
28

C. Reasonable Consumers Purchase the Products Because They Have Been Deceived to Believe They Are “Natural.”

49. Defendant’s labeling of the Products as “natural” unequivocally demonstrates its intent to persuade the consumer that the Products are “natural” because they contain only natural ingredients. However, the Products do not contain only natural ingredients. As described above, many of the ingredients contained in the Products are the result of complex, multi-step processes that involve the use of toxic chemicals. The end products are substances which do not exist in nature, and which could not exist without the complex chemical processes detailed in Section B of the Substantive Allegations above.

50. Despite the inclusion of highly processed and/or non-natural ingredients, Defendant labeled and marketed the Products as “natural.”

51. Reasonable consumers, including Plaintiffs, purchased the Products based upon a belief that they are “natural.” However, a reasonable consumer would not deem the Products natural if he/she knew that they contained highly processed and/or non-natural ingredients.

52. Hence, Defendant’s claims that the Products are “natural” are false and misleading.

D. Certain Products Which Are Sold, Labeled, and Represented as Organic, Are Not Organic.

53. As with the demand for and premium paid for natural products, the demand for and premium paid for organic products has spurred profiteering companies such as Defendant to sell, label and represent products as organic when in fact such products are not organic.

54. Defendant sells and markets cosmetic products such as its liquid hand soaps as organic. For example, such products prominently state “Organic Lemongrass” and/or “Organic Lavender” on the principle display panel. Nevertheless, such products are comprised almost entirely from ingredients that are not organic.

55. Organic products are made with organically grown plants. As such, organic ingredients are produced without the use of pesticides and other harmful or potentially harmful chemicals. Organic products have gained popularity such that over 70% of households in the United States now use some organic products each year, even though such products typically cost more than their non-organic counterparts. Growing concerns over the use of harmful chemicals

1 in the production of non-organic products, together with a desire for more healthy lifestyles, have
 2 spurred the popularity of organic products. The personal care product market is one of the fastest
 3 growing markets for organic products. Consumers such as Plaintiff and the other members of the
 4 Classes are willing to pay more for organic personal care products such as skin care, hair care,
 5 and body care in order to avoid harmful chemicals in favor of more natural ingredients.
 6 Defendant takes advantage of this segment of consumers by marketing, advertising, selling,
 7 labeling, and representing the Cosmetic Products as organic, when in fact such Cosmetic Products
 8 contain significant amounts of non-organic ingredients. In fact, the vast majority of the
 9 ingredients in the Cosmetic Products are not organic.

10 56. California law expressly prohibits companies such as Defendant from engaging in
 11 this type of misleading labeling. The California Organic Products Act of 2003, Cal. Health &
 12 Safety Code § 110810, *et seq.* (hereinafter “COPA”), requires that any cosmetic product sold,
 13 labeled and/or represented as “organic” must be comprised of at least 70% organically produced
 14 ingredients by weight or fluid volume, excluding water and salt. Cal. Health & Safety Code
 15 §110838. The Cosmetic Products are cosmetics that contain far less than 70% organically
 16 produced ingredients, excluding water and salt. Nevertheless, Defendant labels, sells, and
 17 represents the Cosmetic Products as organic.

18 57. Defendant’s conduct of advertising, marketing, selling, labeling, and representing
 19 the Cosmetic Products as organic, when in fact such Cosmetic Products are comprised mainly of
 20 non-organic ingredients, constitutes unlawful, unfair, and deceptive conduct, is likely to deceive
 21 members of the public, is unethical, oppressive, unscrupulous, and substantially injurious to
 22 consumers, and violates California’s legislatively-declared policies against misrepresenting the
 23 organic content of cosmetics and against misrepresenting the characteristics of goods and
 24 services. As such, Defendant’s marketing, labeling, and advertising practices violate California’s
 25 COPA.

The Nature of the Illegality of Defendant’s Conduct

26 58. Defendant has profited enormously from its false advertising of the Products.
 27 According to its website, Defendant is a family-owned company that now “has international
 28

1 distribution, in more than 60 countries, of a retail line of over 60 household products,” and its
2 products “may be purchased at a variety of retail outlets and on [its own] web site.”⁴⁵

3 59. The Federal Trade Commission (FTC), whose mission is, in part, “[t]o prevent
4 business practices that are anticompetitive or deceptive or unfair to consumers,” has issued
5 marketing standards, known as the “FTC Green Guides,”⁴⁶ that apply to the unfair and deceptive
6 nature of Defendant’s environmental marketing claims.

7 60. Environmental marketing claims that violate the standards of the Green Guides are
8 *per se* unlawful under California’s Environmental Marketing Claims Act (“EMCA”), Cal. Bus. &
9 Prof. Code §§ 17580-17581.

10 61. The acts and omissions alleged herein are in contravention of the FTC Green
11 Guides and in violation of the EMCA in several respects. For example, Defendant makes
12 unqualified representations about the “natural” qualities of the Products, whereas the FTC Green
13 Guides advise that, to prevent deceptive claims, any “qualifications and disclosures should be
14 clear, prominent and understandable.”⁴⁷ Furthermore, the FTC Green Guides advise that, “[t]o
15 make disclosures clear and prominent, marketers . . . should place disclosures in close proximity
16 to the qualified claim.”⁴⁸ Defendant has not placed any clear, prominent disclosures in close
17 proximity to its unqualified “natural,” “naturally derived,” and “made from plants” claims on the
18 packaging for Ultra Dishmate or in close proximity to its “Natural” claim on the packaging for
ECOS Natural Laundry.

19 62. Similarly, Defendant makes unqualified representations that the Products offer
20 general environmental benefits, whereas the Green Guides advise that “marketers should not

21 ⁴⁵ Earth Friendly Products, About Us, <http://www.ecos.com/about.html> (viewed Jan. 31, 2015).

22 ⁴⁶ See FTC, *GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS*, 16 C.F.R. Part 260, available at <http://www.ftc.gov/os/2012/10/greenguides.pdf>.

23 ⁴⁷ 16 C.F.R. § 260.3(a) (2012); see also 16 C.F.R. § 260.6(a) (2003) (“*Qualifications and*
24 *disclosures*. The Commission traditionally has held that in order to be effective, any qualifications
25 or disclosures such as those described in these guides should be sufficiently clear, prominent and
understandable to prevent deception.”).

26 ⁴⁸ 16 C.F.R. § 260.3(a) (2012); see also 16 C.F.R. § 260.6(a) (2003) (“Clarity of language,
27 relative type size and proximity to the claim being qualified, and an absence of contrary claims
disclosures are appropriately clear and prominent.”).

1 make unqualified general environmental benefit claims.”⁴⁹ By way of illustration and not
 2 limitation, Defendant’s representations “natural,” “naturally derived,” and “made from plants,”
 3 Defendant’s use of the “Earth Friendly” logo with orange and lemon fruits, and (on many of the
 4 packages) illustrations such as clean blue skies or falling water drops, are all such unqualified
 5 representations of general environmental benefit.⁵⁰ Moreover, should any consumer research
 6 further, Defendant’s own website asserts that it “respond[s] to new research and customer
 7 preferences immediately.”⁵¹

8 63. Furthermore, although the FTC Green Guides do not specifically address the term
 9 “natural,” “naturally derived,” and “made from plants,” the FTC has made clear that the general
 10 principles of the Guides apply—*i.e.*, use of such terms must not be misleading to reasonable
 11 consumers, and marketers must have substantiation for such claims if they evoke environmental
 12 benefits.⁵² Defendant’s use of these terms is misleading and unsubstantiated, as described herein.

13 64. In sum, Defendant’s prominent representations on the packaging for the Products
 14 deceptively mislead consumers into believing that Earth Friendly Products offers two natural,
 15

16 ⁴⁹ 16 C.F.R. § 260.4(b) (2012); *see also* 16 C.F.R. § 260.7(a) (2003) (“It is deceptive to
 17 misrepresent, directly or by implication, that a product, package or service offers a general
 18 environmental benefit. . . . [E]very express and material implied claim that the general assertion
 19 conveys to reasonable consumers about an objective quality, feature or attribute of a product or
 20 service must be substantiated. Unless this substantiation duty can be met, broad environmental
 21 claims should either be avoided or qualified, as necessary, to prevent deception about the specific
 22 nature of the environmental benefit being asserted.”).

23 ⁵⁰ *See* 16 C.F.R. § 260.4(“Example 3”) (2012) (“A marketer’s advertisement features a picture of
 24 a laser printer in a bird’s nest balancing on a tree branch, surrounded by a dense forest. In green
 25 type, the marketer states, ‘Buy our printer. Make a change.’ Although the advertisement does not
 26 expressly claim that the product has environmental benefits, the featured images, in combination
 27 with the text, likely convey that the product has far-reaching environmental benefits and may
 28 convey that the product has no negative environmental impact. Because it is highly unlikely that
 the marketer can substantiate these claims, this advertisement is deceptive.”).

⁵¹ Earth Friendly Products, About Us, <http://www.ecos.com/about.html> (viewed Jan. 31, 2015).

⁵² *See* FTC, *THE GREEN GUIDES: STATEMENT OF BASIS AND PURPOSE*,
<http://www.ftc.gov/os/fedreg/2012/10/greenguidesstatement.pdf> 259 (citing 75 Fed. Reg. 63,552,
 63,585-63,586 (Oct. 15, 2010)). The FTC did not propose specific guidelines regarding the term
 “natural” because it “lacked consumer perception evidence indicating how consumers understand
 ‘natural.’” *Id.*

1 environmentally sound, and relatively safer product alternatives to traditional offerings in the
2 detergent categories.

3 65. Defendant has engaged in additional unlawful conduct by and through its failure to
4 warn regarding the significant and known hazards of exposure to the MI contained in the
5 Products. Where, as here, a significant proportion of the population suffers from allergic
6 reactions to a chemical contained in a consumer product, the manufacturer of that product has a
7 legal duty to warn regarding the allergic properties of that chemical. This is especially true
8 where, as here, the consumer may have no other means of knowing that the use of the Products
9 may result in serious skin allergies.

10 66. Defendant has profited enormously from false and misleading representations that
11 the Products are natural, safe, organic, and environmentally sound, as well as its failure to include
12 warnings regarding the skin allergies caused by the chemical compounds within the Products.
13 The purpose of this action is to put an end to Earth Friendly Products' deceptive marketing of the
14 Products and to provide consumers with warnings regarding the allergenic properties of the MI
15 contained within the Products and monetary relief for Defendant's unjust enrichment stemming
16 from its deceptive and misleading product claims.

16 **CLASS ALLEGATIONS**

17 67. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil
18 Procedure on behalf of themselves and all others similarly situated individuals within the United
19 States (the "Class"), defined as follows:

20 All United States residents who purchased the Products within the United
21 States during the period from January 23, 2011 through the date of the
22 Preliminary Approval Order. Excluded from the Nationwide Class are any
23 of Defendant's officers, directors, or employees; officers, directors, or
24 employees of any entity in which Defendant currently has or has had a
controlling interest; and Defendant's legal representatives, heirs,
successors, and assigns.

25 68. Additionally, Plaintiff Baharestan brings this action pursuant to Rule 23 of the
26 Federal Rules of Civil Procedure on behalf of herself and all other similarly situated Californians
27 (the "California Sub-Class"), defined as follows:

1 All persons who purchased the Products within the state of California
 2 during the period from January 23, 2011 through the date of the
 3 Preliminary Approval Order. Excluded from the Nationwide Class are any
 4 of Defendant's officers, directors, or employees; officers, directors, or
 employees of any entity in which Defendant currently has or has had a
 controlling interest; and Defendant's legal representatives, heirs,
 successors, and assigns.

5 69. Additionally, Plaintiff McIntyre brings this action pursuant to Rule 23 of the
 6 Federal Rules of Civil Procedure on behalf of herself and all other similarly situated Washington
 7 residents (the "Washington Sub-Class"), defined as follows:

8 All persons who purchased the Products within the state of Washington
 9 during the period from January 23, 2011 through the date of the
 10 Preliminary Approval Order. Excluded from the Nationwide Class are any
 11 of Defendant's officers, directors, or employees; officers, directors, or
 12 employees of any entity in which Defendant currently has or has had a
 controlling interest; and Defendant's legal representatives, heirs,
 successors, and assigns.

13 70. The requirements of Federal Rule of Civil Procedure 23 are satisfied because:

14 (a) Numerosity: The members of each class are so numerous that joinder of all
 15 members is impracticable. While the exact number of class members is presently unknown to
 16 Plaintiff, based on Defendant's volume of sales, Plaintiff estimates that each class numbers in the
 17 thousands.

18 (b) Commonality: There are questions of law and fact that are common to the
 19 class members and that predominate over individual questions. These include the following:

- 20 i. Whether Defendant materially misrepresented to the class members
 21 that the Products are natural;
- 22 ii. Whether Defendant's misrepresentations and omissions were material
 23 to reasonable consumers;
- 24 iii. Whether Defendant's labeling, marketing, and sale of the Products
 25 constitutes an unfair, unlawful, or fraudulent business practice;
- 26 iv. Whether Defendant's conduct described above constitutes a breach of
 27 warranty;

v. Whether Defendant's conduct injured consumers and, if so, the extent of the injury; and

vi. The appropriate remedies for Defendant's conduct.

(c) Typicality: Plaintiff's claims are typical of the claims of the class members because Plaintiff suffered the same injury as the class members—*i.e.*, Plaintiff purchased the Products based on Defendant's misleading representations that the Products are "natural."

(d) Adequacy: Plaintiff will fairly and adequately represent and protect the interests of the members of each class. Plaintiff does not have any interests that are adverse to those of the class members. Plaintiff has retained competent counsel experienced in class action litigation and intends to prosecute this action vigorously.

(e) Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. Since the damages suffered by individual class members are relatively small, the expense and burden of individual litigation make it virtually impossible for the class members to seek redress for the wrongful conduct alleged, while an important public interest will be served by addressing the matter as a class action.

71. The prerequisites for maintaining a class action for injunctive or equitable relief under Federal Rule of Civil Procedure 23(b)(2) are met because Defendant has acted or refused to act on grounds generally applicable to each class member, thereby making appropriate final injunctive or equitable relief with respect to each class as a whole.

CAUSES OF ACTION

COUNT I

(Breach of Express Warranty) *On Behalf of the Class*

72. Plaintiffs incorporate by reference the allegations set forth above.

73. Plaintiffs and the Class members formed a contract with Defendant at the time

1 they purchased the Products. As part of that contract, Defendant represented that the Products
 2 were “natural,” as described above. These representations constitute express warranties and
 3 became part of the basis of the bargain between Plaintiff and the Class members, on the one
 4 hand, and Defendant, on the other.

5 74. Defendant made the above-described representations to induce Plaintiffs and the
 6 Class members to purchase the Products, and Plaintiffs and the Class members relied on the
 7 representations in purchasing the Products.

8 75. All conditions precedent to Defendant’s liability under the above-referenced
 9 contract have been performed by Plaintiffs and the other Class members.

10 76. Defendant breached its express warranties about the Products because, as alleged
 11 above, the Products are not “natural.” Defendant breached the following state warranty laws:

- 12 A. Alaska Stat. section 45.02.313;
- 13 B. Ariz. Rev. Stat. section 47-2313;
- 14 C. Ark. Code Ann. section 4-2-313;
- 15 D. Cal. Com. Code section 2313;
- 16 E. Colo. Rev. Stat. section 4-2-313;
- 17 F. Conn. Gen. Stat. section 42a-2-313;
- 18 G. 6 Del. Code section 2-313;
- 19 H. D.C. Code section 28:2-313;
- 20 I. Ga. Code Ann. section 11-2-313;
- 21 J. Haw. Rev. Stat. section 490:2-313;
- 22 K. Idaho Code Ann. section 28-2-313;
- 23 L. 810 Ill. Comp. Stat. 5/2-313;
- 24 M. Ind. Code section 26-1-2-313;
- 25 N. Kan. Stat. Ann. section 84-2-313;
- 26 O. Ky. Rev. Stat. section 355.2-313;
- 27 P. 11 Me. Rev. Stat. Ann. section 2-313;

1 Q. Mass. Gen. Laws Ann. ch. 106 section 2-313;
 2 R. Minn. Stat. section 336.2-313;
 3 S. Miss. Code Ann. section 75-2-313;
 4 T. Mo. Rev. Stat. Section 400.2-313;
 5 U. Mont. Code Ann. Section 30-2-313;
 6 V. Neb. Rev. Stat. section 2-313;
 7 W. Nev. Rev. Stat. Ann. section 104.2313;
 8 X. N.H. Rev. Stat. Ann. 382-A:2-313;
 9 Y. N.J. Stat. Ann. section 12A:2-313;
 10 Z. N.M. Stat. Ann. section 55-2-313;
 11 AA. N.Y. U.C.C. Law section 2-313;
 12 AB. N.C. Gen. Stat. section 25-2-313;
 13 AC. N.D. Cent. Code section 41-02-30;
 14 AD. Ohio Rev. Code Ann. section 1302.26;
 15 AE. 12A Okla. Stat. section 2-313;
 16 AF. Or. Rev. Stat. section 72-3130;
 17 AG. 13 Pa. Cons. Stat. section 2313;
 18 AH. R.I. Gen. Laws section 6A-2-313;
 19 AI. S.C. Code Ann. section 36-2-313;
 20 AJ. S.D. Codified Laws, section 57A-2-313;
 21 AK. Tenn. Code Ann. section 47-2-313;
 22 AL. Tex. Bus. & Com. Code section 2.313;
 23 AM. Utah Code Ann. section 70A-2-313;
 24 AN. 9A Vt. Stat. Ann. section 2-313;
 25 AO. Va. Code Ann. section 59.1-504.2;
 26 AP. Wash. Rev. Code Ann. section 62A.2-313;
 27 AQ. W. Va. Code section 46-2-313;

1 AR. Wyo. Stat. Ann. section 34.1-2-313.

2 77. As a result of Defendant's breaches of express warranty, Plaintiffs and the other
3 members of the Class were damaged in the amount of the purchase price they paid for the
4 Products, in amounts to be proven at trial.

5 78. Within a reasonable time after they knew or should have known of such breach,
6 Plaintiffs, on behalf of herself and the other members of the Class, placed Defendant on notice
7 thereof.

8 79. THEREFORE, Plaintiff prays for relief as set forth below.

9 **COUNT II**

10 **(Unfair and Deceptive Acts and Practices**
11 **In Violation of the California Consumers Legal Remedies Act)**
12 ***On Behalf of the California Sub-Class***

13 80. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged
14 above.

15 81. This cause of action is brought pursuant to California's Consumers Legal
16 Remedies Act, Cal. Civ. Code §§ 1750-1785 ("CLRA").

17 82. Plaintiff Baharestan and the other members of the California Sub-Class are
18 "consumers," as the term is defined by California Civil Code § 1761(d), because they bought the
19 Products for personal, family, or household purposes.

20 83. Plaintiff Baharestan, the other members of the California Sub-Class, and
21 Defendant have engaged in "transactions," as that term is defined by California Civil Code
22 §1761(e).

23 84. The conduct alleged in this Complaint constitutes unfair methods of competition
24 and unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was
25 undertaken by Defendant in transactions intended to result in, and which did result in, the sale of
26 goods to consumers.

27 85. As alleged more fully above, Defendant has violated the CLRA by falsely
28 representing to Plaintiff Baharestan and the other members of the California Sub-Class that the

1 Products (a) are unqualifiedly “natural”, (b) unqualifiedly naturally derived, (c) unqualifiedly
2 made from plants, and (d) safer product alternatives made without harsh chemicals.

3 86. As a result of engaging in such conduct, Defendant has violated California Civil
4 Code § 1770(a)(5), (a)(7), and (a)(9).

5 87. Pursuant to California Civil Code § 1780(a)(2) and (a)(5), Plaintiff Baharestan
6 seeks an order of this Court that includes, but is not limited to, an order requiring Defendant to:

- 7 a. remove and/or refrain from making representations on the Products’
8 packaging representing that the Products provide an unqualified level of
9 “natural” benefits; and
- 10 b. remove and/or refrain from making representations on the Products’
11 packaging representing that the Products are unqualifiedly naturally derived
12 and unqualifiedly made from plants.

13 88. Plaintiff Baharestan and the other California Sub-Class members may be
14 irreparably harmed and/or denied an effective and complete remedy if such an order is not
15 granted.

16 89. The unfair and deceptive acts and practices of Defendant, as described above,
17 present a serious threat to Plaintiff Baharestan and the other members of the California Sub-Class.

18 90. CLRA § 1782 NOTICE. On March 25, 2015, a CLRA demand letter was sent to
19 Defendant via certified mail that provided notice of Defendant’s violation of the CLRA and
20 demanded that within thirty (30) days from that date, Defendant correct, repair, replace or other
21 rectify the unlawful, unfair, false and/or deceptive practices complained of herein. The letter also
22 stated that if Defendant refused to do so, a complaint seeking damages in accordance with the
23 CLRA would be filed. Defendant has failed to comply with the letter. Accordingly, pursuant to
24 California Civil Code § 1780(a)(3), Plaintiff Baharestan, on behalf of herself and all other
25 members of the California Sub-Class, seeks compensatory damages, punitive damages, and
26 restitution of any ill-gotten gains due to Defendant’s acts and practices.
27
28

COUNT III**(Violations of California's False Advertising Law)
*On Behalf of the California Sub-Class***

91. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged above.

92. As alleged more fully above, Defendant has falsely advertised the Products by falsely claiming that the Products are unqualifiedly naturally derived and environmentally sound.

93. Plaintiff Baharestan and the other members of the California Sub-Class have suffered injury in fact and have lost money or property as a result of Defendant's violations of California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code § 17500 *et seq.*

94. Pursuant to California Business and Professions Code §§ 17203 and 17535, Plaintiff Baharestan and the California Sub-Class seek an order of this Court that includes, but is not limited to, an order requiring Defendant to:

- a. remove and/or refrain from making representations on the Products' packaging representing that the Products provide an unqualified level of "natural" benefits; and
- b. remove and/or refrain from making representations on the Products' packaging representing that the Products are unqualifiedly naturally derived and unqualifiedly made from plants.

COUNT IV**(Violations of California's Environmental Marketing Claims Act)
*On Behalf of the California Sub-Class***

95. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged above.

96. As alleged more fully above, Defendant has falsely advertised the Products by falsely claiming that the Products are unqualifiedly natural, unqualifiedly naturally derived, and unqualifiedly made from plants.

97. Plaintiff Baharestan and the other members of the California Sub-Class have suffered injury in fact and have lost money or property as a result of Defendant's violations of

1 California's Environmental Marketing Claims Act ("EMCA"), Cal. Bus. & Prof. Code §§ 17580-
2 17581.

3 98. In particular, Defendant has violated and continues to violate California Business
4 and Professions Code § 17580.5, which makes it "unlawful for any person to make any
5 untruthful, deceptive, or misleading environmental marketing claim, whether explicit or implied"
6 and which defines an environmental marketing claim to include "any claim contained in the [the
7 FTC's Green Guides]."

8 99. Pursuant to California Business and Professions Code §§ 17203 and 17535,
9 Plaintiff Baharestan and the California Sub-Class seek an order of this Court that includes, but is
10 not limited to, an order requiring Defendant to:

- 11 a. remove and/or refrain from making representations on the Products'
12 packaging representing that the Products provide an unqualified level of
13 "natural" benefits; and
- 14 b. remove and/or refrain from making representations on the Products'
15 packaging representing that the Products are unqualifiedly naturally derived
16 and unqualifiedly made from plants.

17 **COUNT V**

18 **(Violation of California Organic Products Act)** 19 ***On Behalf of the California Sub-Class***

20 100. Plaintiff McBride incorporates by reference the allegations set forth above.

21 101. Plaintiff Baharestan is a "person" within the meaning of Cal. Health & Safety
22 Code § 111910(a).

23 102. Defendant has violated and continues to violate the provisions of COPA, Cal.
24 Health & Safety Code § 110838, as described above.

25 103. Cal. Health & Safety Code § 111910(a) provides for injunctive relief for any
26 violation of COPA and affords standing to "any person" to enforce such violations. That Section
27 provides, in part:

28 any person may bring an action in superior court pursuant to this section
and the court shall have jurisdiction upon hearing and for cause shown, to
grant a temporary or permanent injunction restraining any person from

violating any provision of Article 7 (commencing with Section 110810) of Chapter 5.

Id. That Section further provides that actions for injunctive relief to remedy violations of COPA are not subject to all of the same restrictions as other actions for injunctive relief. Specifically,

the person shall not be required to allege facts necessary to show, or tending to show, lack of adequate remedy at law, or to show, or tending to show, irreparable damage or loss, or to show, or tending to show, unique or special individual injury or damages.

Id.

104. Plaintiff is thus entitled to both preliminary and permanent injunctive relief to restrain Defendant's violations of COPA. Cal. Health & Safety Code § 111910(a).

105. Specifically, Plaintiff Baharestan and the California Sub-Class seek an order of this Court that includes, but is not limited to, an order requiring Defendant to:

- a. Stop using the word "organic" on the principal display panel of any product that does not contain a minimum of 70% organic ingredients.
- b. pay Plaintiff Baharestan's and the California Sub-Class's attorneys' fees and costs.

COUNT VI

(Violation of California's Unfair Competition Law) On Behalf of the California Sub-Class

106. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged above.

107. By committing the acts and practices alleged herein, Defendant has violated California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200-17210, as to the California Sub-Class as a whole, by engaging in unlawful, fraudulent, and unfair conduct.

108. Defendant has violated the UCL's proscription against engaging in *unlawful* conduct as a result of:

- a. its violations of the CLRA, Cal. Civ. Code § 1770(a)(5), (a)(7), and (a)(9), as alleged above;
- b. its violations of the FAL, Cal. Bus. & Prof. Code § 17500 *et seq.*, as alleged above;

- c. its violations of COPA, Cal. Health and Safety Code §110838, as alleged above;
- d. its violations of the EMCA, Cal. Bus. & Prof. Code §§ 17580-17581, as alleged above; and
- e. Its material omissions resulting from its failure to warn regarding the known allergenic hazards of MI as described above.

109. Defendant's acts and practices described above also violate the UCL's proscription against engaging in fraudulent conduct.

110. As more fully described above, Defendant's misleading marketing, advertising, packaging, and labeling of Products is likely to deceive reasonable consumers. Indeed, Plaintiff Baharestan and the other members of the California Sub-Class were unquestionably deceived regarding the environmental and natural benefits of Products, as Defendant's marketing, advertising, packaging, and labeling of the Products misrepresents and/or omit the true facts concerning the benefits of the Products. Plaintiff Baharestan and the California subclass were further deceived by Defendant's omission of any warnings regarding the known allergenic hazards of the MI in the Products. Said acts are fraudulent business practices.

111. Defendant's acts and practices described above also violate the UCL's proscription against engaging in *unfair* conduct.

112. Plaintiff Baharestan and the other California Sub-Class members suffered a substantial injury by virtue of buying the Products that they would not have purchased absent Defendant's unlawful, fraudulent, and unfair marketing, advertising, packaging, and labeling or by virtue of paying an excessive premium price for the unlawfully, fraudulently, and unfairly marketed, advertised, packaged, and labeled Products.

113. There is no benefit to consumers or competition from deceptively marketing and labeling products, which purport to be natural, naturally derived, made from plants, and safer alternatives to traditional offerings when these claims are false. There is also no benefit to consumers from failing to provide warnings regarding a skin allergen that is known to cause allergic reactions in two to ten percent of the population.

1 114. Plaintiff Baharestan and the other California Sub-Class members had no way of
2 reasonably knowing that the Products they purchased were not as marketed, advertised, packaged,
3 or labeled. Thus, they could not have reasonably avoided the injury each of them suffered.

4 115. The gravity of the consequences of Defendant's conduct as described above
5 outweighs any justification, motive, or reason therefore, particularly considering the available
6 legal alternatives which exist in the marketplace, and such conduct is immoral, unethical,
7 unscrupulous, offends established public policy, or is substantially injurious to Plaintiff
8 Baharestan and the other members of the California Sub-Class.

9 116. Defendant's violations of the UCL continue to this day.

10 117. Pursuant to California Business and Professional Code § 17203, Plaintiff
11 Baharestan and the California Sub-Class seek an order of this Court that includes, but is not
12 limited to, an order requiring Defendant to:

- 13 a. remove and/or refrain from making representations on the Products'
14 packaging representing that the Products provide an unqualified level of
15 "natural" benefits;
 - 16 b. remove and/or refrain from making representations on the Products'
17 packaging representing that the Products are unqualifiedly naturally derived
18 and unqualifiedly made from plants;
 - 19 c. require prominent warnings on the principle display panel of the Products that
20 such Products contain methylisothiazolinone, a chemical known to cause
21 severe contact dermatitis;
 - 22 d. provide restitution to Plaintiff Baharestan and the other California Sub-Class
23 members;
 - 24 e. disgorge all revenues obtained as a result of violations of the UCL; and
 - 25 f. pay Plaintiff Baharestan's and the California Sub-Class's attorneys' fees and
26 costs.
- 27
28

COUNT VII**(Violation of the Washington Consumer Protection Act – RCW §§ 19.86, *et seq.*)
*On Behalf of the Washington Sub-Class***

118. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged above.

119. This claim arises under the Washington Consumer Protection Act, Wash. Rev. Code (“RCW”) §§ 19.86, *et seq.* (“CPA”).

120. At all relevant times, Defendant engaged in “trade” and/or “commerce” within the meaning of RCW § 19.86.010.

121. The CPA broadly prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or business. RCW § 19.86.020

122. Defendant made uniform representations that the Products were of a particular standard, quality, or grade when they were not, and, as set forth above, made false and/or misleading statements regarding the “natural” quality and characteristics of the Products that, as set forth above, were unfair and deceptive, had and continue to have the capacity to deceive the public, cause injury to Plaintiff McIntyre and the Washington Class, and were made in violation of the CPA.

123. As alleged above, Defendant has violated the CPA by making false representations on the Products’ packaging and in marketing (as detailed herein) that the Products are “natural,” when in fact they contain highly processed and/or non-natural ingredients.

124. This type of information is relied upon by consumers in making purchasing decisions and is fundamental to the decision to purchase the Products.

125. Defendant has represented and continues to represent its Products in a deceptive and misleading manner as described herein. These representations were important to reasonable consumers, such as Plaintiff and members of the Washington Class, in deciding whether to purchase the Products. Defendant knew or should have known these representations were patently false and/or misleading.

126. Plaintiff McIntyre and members of the Washington Class have each been directly and proximately injured by the conduct of Defendant, and such injuries include economic injury

1 for the loss of sums which constituted payment for the Products they purchased. Indeed, Plaintiff
 2 McIntyre and the Washington Class lost money or property when they purchased and/or paid a
 3 premium price for the Products. Plaintiff McIntyre and the Washington Class would not have paid
 4 as much or purchased the Products at all had they known they were not “natural” as promised.

5 127. At all times material, Defendant engaged in a scheme of making false
 6 representations on the Products’ packaging and in marketing (as detailed above) by
 7 misrepresenting the “natural” quality. In fact, Defendant knew that these representations were
 8 false and misleading. In engaging in this conduct, Defendant misrepresented important
 9 characteristics of its Products– i.e., the “natural” quality. Defendant intended that Plaintiff
 10 McIntyre and members of the Washington Class rely on its deceptive acts and misrepresentations,
 11 and Plaintiff and the members of the Washington Class were actually deceived by Defendant’s
 12 representations regarding the “natural” quality of the Products.

13 128. The representations made by Defendant detrimentally affect the public interest.
 14 There is an inherent public interest in the truthful marketing and sales of products that operate as
 15 advertised. The Products were not of the “natural” quality as advertised and thus negatively
 16 affected the public interest.

17 129. By the conduct described herein, Defendant engaged in unfair methods of
 18 competition and/or unfair or deceptive acts or practices in the conduct of business, trade, or
 19 commerce.

20 130. The Plaintiff McIntyre has already provided any required notice to appropriate
 21 entities regarding Defendant’s unfair and deceptive trade practices.

22 131. THEREFORE, Plaintiffs prays for relief as set forth below.

PRAYER FOR RELIEF

23 WHEREFORE, Plaintiffs demand judgment on behalf of themselves and the Class and the
 24 California Sub-Class as follows:

25 A. An order certifying the proposed Class and the California and Washington Sub-
 26 Classes; appointing Plaintiffs as representatives of the Class and the Sub-Classes; and appointing
 27 Plaintiffs’ undersigned counsel as Class counsel;

B. A declaration that Defendant is financially responsible for notifying Class members of the pendency of this suit;

C. An award of restitution;

D. An award of restitutionary disgorgement pursuant to California Business and Professions Code §§ 17203 and 17535 for members of the California Sub-Class;

E. An order enjoining Defendant's unlawful and deceptive acts and practices, pursuant to California Business and Professions Code §§ 17203 and 17535, to remove and/or refrain from using representations on Defendant's Products that the Products provide an unqualified level of "natural" benefits and are unqualifiedly naturally derived and made from plants;

F. An order enjoining Defendant's violations of COPA;

G. An order requiring prominent warnings on the principal display panel of the Products that such Products contain methylisothiazolinone, a chemical known to cause severe contact dermatitis;

H. Monetary damages and injunctive relief for members of the California Sub-Class pursuant to California Civil Code § 1780;

I. Statutory damages in the maximum amount provided by law;

J. Punitive damages in accordance with proof and in an amount consistent with applicable precedent;

K. An order awarding Plaintiffs and the other Class members the reasonable costs and expenses of suit, including their attorneys' fees; and

L. Any further relief that the Court may deem appropriate.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury for all claims so triable.

1 DATED: August 4, 2015

Respectfully submitted,

3 /s/ Mark N. Todzo

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